

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

TUAN MARTIN

(b) County of Residence of First Listed Plaintiff _____

(c) Attorney's (Firm Name, Address, Telephone Number and Email Address)

Craig Thor Kimmel, Esquire
 Kimmel & Silverman, P.C.
 30 E. Butler Pike
 Ambler, PA 19002
 (215) 540-8888

DEFENDANTS

NCO FINANCIAL SYSTEMS, INC.

County of Residence of First Listed Defendant _____

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

Citizen of This State	<input type="checkbox"/> PTF 1	<input type="checkbox"/> DEF 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> PTF 4	<input type="checkbox"/> DEF 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	PROPERTY RIGHTS	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 830 Patent	<input checked="" type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	LABOR	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Other Personal Injury	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 400 Other	<input type="checkbox"/> 720 Labor/Mgmt. Relations Act	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	Habeas Corpus:	SOCIAL SECURITY	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 865 RSI (405(g))	
			FEDERAL TAX SUITS	
			<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
			<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	
			IMMIGRATION	
			<input type="checkbox"/> 462 Naturalization Application	
			<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee	
			<input type="checkbox"/> 465 Other Immigration Actions	

V. ORIGIN

(Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment
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Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 U.S.C SECTION 1692**VI. CAUSE OF ACTION**Brief description of cause:
Fair Debt Collection Practices Act**VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION
 UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No**VIII. RELATED CASE(S)**

(See instructions):

JUDGE

DOCKET NUMBER

Explanation:

10-28-11

SIGNATURE OF ATTORNEY OF RECORD

DATE

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 27013 Pacific Hwy. South #2 Des Moines, WA 98198

Address of Defendant: 507 Prudential Road, Horsham PA 19044

Place of Accident, Incident or Transaction: _____
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes No

Does this case involve multidistrict litigation possibilities? Yes No

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes No

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes No

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes No

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes No

CIVIL: (Place in ONE CATEGORY ONLY)

A. *Federal Question Cases:*

1. Indemnity Contract, Marine Contract, and All Other Contracts

2. FELA

3. Jones Act-Personal Injury

4. Antitrust

5. Patent

6. Labor-Management Relations

7. Civil Rights

8. Habeas Corpus

9. Securities Act(s) Cases

10. Social Security Review Cases

11. All other Federal Question Cases 15 U.S.C. §1692
(Please specify)

B. *Diversity Jurisdiction Cases:*

1. Insurance Contract and Other Contracts

2. Airplane Personal Injury

3. Assault, Defamation

4. Marine Personal Injury

5. Motor Vehicle Personal Injury

6. Other Personal Injury (Please specify)

7. Products Liability

8. Products Liability — Asbestos

9. All other Diversity Cases

(Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Craig Thor Kimmel, counsel of record do hereby certify:

Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

Relief other than monetary damages is sought.

DATE: _____

Craig Thor Kimmel

Attorney-at-Law

57100

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: _____

Craig Thor Kimmel

Attorney-at-Law

57100

Attorney I.D.#

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

Tuan Martin : CIVIL ACTION
v. :
NCO Financial Systems, Inc. NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

(a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()

(b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()

(c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (X)

(d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()

(e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()

(f) Standard Management – Cases that do not fall into any one of the other tracks. ()

Date
215-540-8888

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Telephone

FAX Number

Tuan Martin
Attorney for
Kimmel@creditlaw.com

E-Mail Address

UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

TUAN MARTIN,)
Plaintiff)
v.)
NCO FINANCIAL SYSTEMS, INC.,)
Defendant)
Case No.:)
COMPLAINT AND DEMAND FOR)
JURY TRIAL)
(Unlawful Debt Collection Practices)

COMPLAINT

TUAN MARTIN (“Plaintiff”), by and through his attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against NCO FINANCIAL SYSTEMS, INC. (“Defendant”):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA").

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising under the laws of the United States.

3. Defendant has its corporate headquarters in the Commonwealth of Pennsylvania and as such, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(1).

PARTIES

5. Plaintiff is a natural person residing in Des Moines, Washington.

6. Plaintiff is a “consumer” as that term is defined by 15 U.S.C. §1692a(3).

7. Defendant is a national debt collection company with its corporate headquarters at 507 Prudential Road, Horsham, PA 19044.

8. Defendant is a “debt collector” as that term is defined by 15 U.S.C. § 1692a(6), and repeatedly contacted Plaintiff in an attempt to collect a debt.

9. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

PRELIMINARY STATEMENT

10. The Fair Debt Collection Practices Act (“FDCPA”) is a comprehensive statute, which prohibits a catalog of activities in connection with the collection of debts by third parties. See 15 U.S.C. § 1692 *et seq.* The FDCPA imposes civil liability on any person or entity that violates its provisions, and establishes general standards of debt collector conduct, defines abuse, and provides for specific consumer rights. 15 U.S.C. § 1692k.

11. The operative provisions of the FDCPA declare certain rights to be provided to or claimed by debtors, forbid deceitful and misleading practices, prohibit harassing and abusive tactics, and proscribe unfair or unconscionable conduct, both generally and in a specific list of disapproved practices.

12. In particular, the FDCPA broadly enumerates several practices considered contrary to its stated purpose, and forbids debt collectors from taking such action. The substantive heart of the FDCPA lies in three broad prohibitions. First, a “debt collector may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any

1 person in connection with the collection of a debt.” 15 U.S.C. § 1692d. Second, a “debt
2 collector may not use any false, deceptive, or misleading representation or means in connection
3 with the collection of any debt.” 15 U.S.C. § 1692e. And third, a “debt collector may not use
4 unfair or unconscionable means to collect or attempt to collect any debt.” 15 U.S.C. § 1692f.
5 The FDCPA is designed to protect consumers from unscrupulous collectors, whether or not there
6 exists a valid debt, broadly prohibits unfair or unconscionable collection methods, conduct which
7 harasses, oppresses or abuses any debtor, and any false, deceptive or misleading statements in
8 connection with the collection of a debt.
9

10 13. In enacting the FDCPA, the United States Congress found that “[t]here is
11 abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many
12 debt collectors,” which “contribute to the number of personal bankruptcies, to marital instability,
13 to the loss of jobs, and to invasions of individual privacy.” 15 U.S.C. § 1692a. Congress
14 additionally found existing laws and procedures for redressing debt collection injuries to be
15 inadequate to protect consumers. 15 U.S.C. § 1692b.

16 14. Congress enacted the FDCPA to regulate the collection of consumer debts by debt
17 collectors. The express purposes of the FDCPA are to “eliminate abusive debt collection
18 practices by debt collectors, to insure that debt collectors who refrain from using abusive debt
19 collection practices are not competitively disadvantaged, and to promote consistent State action
20 to protect consumers against debt collection abuses.” 15 U.S.C. § 1692e.
21
22
23
24
25

FACTUAL ALLEGATIONS

16. At all pertinent times hereto, Defendant was hired to collect a consumer debt and attempted to collect that debt from Plaintiff.

17. The debt arose out of transactions that were primarily for personal, family, or household purposes.

18. Beginning or about June 15, 2011, and continuing through September 25, 2011, Defendant contacted Plaintiff continuously and repeatedly on his cellular telephone and at work in its attempts to collect a debt.

19. Many of the telephone calls Plaintiff received from Defendant originated from: 888-289-0907, which the undersigned has confirmed is a telephone number belonging to Defendant.

20. Defendant contacted Plaintiff, on average, at least two (2) times a day, sometimes calling as frequently as five (5) times a day.

21. In addition to contacting Plaintiff on his cellular telephone, Defendant contacted Plaintiff's family, friends, and co-workers, in its attempts to collect the debt from Plaintiff.

22. When Defendant contacted Plaintiff's family, friends and co-workers, Defendant requested to speak with Plaintiff and revealed that it was calling about a debt.

23. In June 2011, on multiple occasions, Plaintiff spoke with representatives of Defendant, including individuals who identified themselves to Plaintiff as "Steve," "Alicia," and "John," in order to put a stop to Defendant's repetitive calls.

24. Plaintiff specifically instructed Defendant to stop calling his cellular telephone, to stop calling his family and friends, and to stop calling his place of employment.

25. Despite Plaintiff's unambiguous demand that Defendant stop calling him,

1 Defendant continued to contact Plaintiff, including contacting him on his cellular telephone and
2 at work, as well as contacting his family and friends.

3 26. Specifically, Defendant contacted Plaintiff's family and/or friends on the
4 following days: July 22, 2011; July 25, 2011; August 3, 2011; August 10, 2011; September 7,
5 2011; September 10, 2011; September 15, 2011; and September 22, 2011, in its attempts to
6 collect a debt from Plaintiff.

7 27. In these telephone calls, Defendant revealed to Plaintiff's friends and family that
8 Plaintiff owed a debt.

9 28. Plaintiff had not given Defendant permission to speak to his family, friends or co-
10 workers about the alleged debt.

12 29. Also, Defendant continued to contact Plaintiff on his cellular phone, on average,
13 at least twice a day, and sometimes continuing to call as frequently as five (5) times a day.

14 30. Further, when contacting Plaintiff, Defendant has contacted Plaintiff at times
15 where it was inconvenient for him to receive collection calls, specifically calling him at 6:00
16 a.m. on September 15, 2011, and calling him at 11:00 p.m. on September 30, 2011.

17 31. Also, Defendant made claims to Plaintiff that "it was an emergency" and that if
18 he did not respond, he will "be in court."

19 32. At the time Defendant made those claims to Plaintiff, it did not have the intention
20 to take Plaintiff to court and knew that non-payment of the debt would not result in Plaintiff
21 going to court.

23 33. Additionally, on multiple occasions, including June 18, 2011; July 21, 2011;
24 August 3, 2011; September 15, 2011; and September 20, 2011, Defendant threatened to seize
25 Plaintiff's car(s) if he did not pay the debt.

1 34. Upon information and belief, at the time Defendant threatened to seize Plaintiff's
2 vehicles, Defendant could not legally and had no intention to seize Plaintiff's vehicles.

3 35. Furthermore, to date, Defendant has not taken any action to seize Plaintiff's
4 vehicles.

5 36. Further, each time Defendant contacted Plaintiff, the amount of the alleged debt
6 changed, but Defendant did not provide Plaintiff with any explanation for the increase.

7 37. For instance, on or about June 18, 2011, Defendant claimed Plaintiff owed
8 \$663.00, but on July 21, 2011, one month later, Defendant claimed Plaintiff owed \$720.00.

9 38. Then, on or about August 3, 2011, Defendant claimed Plaintiff owed \$750.00,
10 and by September 20, 2011, Defendant claimed the amount of the alleged debt was \$896.00.

12 39. The change in the amount of the alleged debt, without any explanation, was
13 confusing to Plaintiff, as he did not know whether the amount Defendant was seeking to collect
14 was an amount actually due and owing.

15 40. When Plaintiff did not respond to Defendant's repeated demands to pay the
16 alleged debt, on September 15, 2011, and September 20, 2011, Defendant threatened Plaintiff
17 that he would be in jail if he did not pay the alleged debt.

18 41. Also, in its attempts to collect a debt, Defendant obtained Plaintiff's banking
19 account information, and without authorization from Plaintiff, attempted to withdraw funds from
20 Plaintiff's bank account, which resulted in Plaintiff's banking account being overdrawn.

22 42. Finally, Defendant failed to send Plaintiff written correspondence within five (5)
23 days of its initial contact with Plaintiff, advising Plaintiff of his rights to dispute the debt and/or
24 request verification of the debt.

25 43. To date, Plaintiff has never received anything in writing from Defendant

regarding the alleged debt.

44. Defendant intentionally wanted to harm Plaintiff and cause injury, stress, fear and humiliation to Plaintiff, believing to do so would substantially increase the likelihood of the debt being paid by Plaintiff.

45. The repetitive calls to Plaintiff were intended by Defendant to be disturbing, harassing, and an invasion of privacy.

CONSTRUCTION OF APPLICABLE LAW

46. The FDCPA is a strict liability statute. Taylor v. Perrin, Landry, deLaunay & Durand, 103 F.3d 1232 (5th Cir. 1997). “Because the Act imposes strict liability, a consumer need not show intentional conduct by the debt collector to be entitled to damages.” Russell v. Equifax A.R.S., 74 F. 3d 30 (2d Cir. 1996); see also Gearing v. Check Brokerage Corp., 233 F.3d 469 (7th Cir. 2000) (holding unintentional misrepresentation of debt collector’s legal status violated FDCPA); Clomon v. Jackson, 988 F. 2d 1314 (2d Cir. 1993).

47. The FDCPA is a remedial statute, and therefore must be construed liberally in favor of the debtor. Sprinkle v. SB&C Ltd., 472 F. Supp. 2d 1235 (W.D. Wash. 2006). The remedial nature of the FDCPA requires that courts interpret it liberally. Clark v. Capital Credit & Collection Services, Inc., 460 F. 3d 1162 (9th Cir. 2006). “Because the FDCPA, like the Truth in Lending Act (TILA) 15 U.S.C §1601 *et seq.*, is a remedial statute, it should be construed liberally in favor of the consumer.” Johnson v. Riddle, 305 F. 3d 1107 (10th Cir. 2002).

48. The FDCPA is to be interpreted in accordance with the "least sophisticated" consumer standard. See Jeter v. Credit Bureau, Inc., 760 F.2d 1168 (11th Cir. 1985); Graziano v. Harrison, 950 F. 2d 107 (3rd Cir. 1991); Swanson v. Southern Oregon Credit Service, Inc.,

1 869 F.2d 1222 (9th Cir. 1988). The FDCPA was not “made for the protection of experts, but for
 2 the public - that vast multitude which includes the ignorant, the unthinking, and the credulous,
 3 and the fact that a false statement may be obviously false to those who are trained and
 4 experienced does not change its character, nor take away its power to deceive others less
 5 experienced.” Id. The least sophisticated consumer standard serves a dual purpose in that it
 6 ensures protection of all consumers, even naive and trusting, against deceptive collection
 7 practices, and protects collectors against liability for bizarre or idiosyncratic interpretations of
 8 collection notices. Clomon, 988 F. 2d at 1318.

9

10 **COUNT I**
 11 **DEFENDANT VIOLATED THE**
12 FAIR DEBT COLLECTION PRACTICES ACT

13 49. In its actions to collect a debt, Defendant violated the FDCPA in one or more of
 14 the following ways:

15 a. Defendant violated the FDCPA generally;

16 b. Defendant violated §1692b(2) of the FDCPA when it disclosed to another
 17 person that Plaintiff owes a debt;

18 c. Defendant violated §1692b(3) of the FDCPA when it communicated with
 19 third parties more than once about Plaintiff’s debt;

20 d. Defendant violated §1692c(a)(1) of the FDCPA when it communicated with
 21 Plaintiff at a time or place that it knew or should have known was
 22 inconvenient;

23 e. Defendant violated §1692c(b) of the FDCPA when it communicated with
 24 another person about Plaintiff’s debt;

25 f. Defendant violated §1692d of the FDCPA when it harassed, oppressed or

1 abused Plaintiff in connection with the collection of a debt;

2 g. Defendant violated §1692d(5) of the FDCPA when caused Plaintiff's phone to
3 ring repeatedly or continuously with the intent to annoy, abuse, or harass
4 Plaintiff;

5 h. Defendant violated §1692e of the FDCPA when it used false, deceptive, or
6 misleading representation or means in connection with its attempt to collect a
7 debt;

8 i. Defendant violated §1692e(4) of the FDCPA when it represented or implied
9 that Plaintiff's non payment would result in arrest, imprisonment, or seizure of
10 Plaintiff's property;

11 j. Defendant violated §1692e(5) of the FDCPA when it threatened to take action
12 that it did not intend to take, or could not lawfully take;

13 k. Defendant violated §1692e(10) of the FDCPA when it used false
14 representations or deceptive means in connection with its attempt to collect a
15 debt;

16 l. Defendant violated §1692f of the FDCPA when it used unfair and
17 unconscionable means in connection with the collection of a debt; and

18 m. Defendant violated §1692g(a) of the FDCPA when it failed to send Plaintiff
19 the required notices regarding his rights under the FDCPA within five days of
20 its initial contact with Plaintiff.

21 WHEREFORE, Plaintiff, TUAN MARTIN, respectfully prays for a judgment as follows:

22 a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
23 b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant to
24 15 U.S.C. § 1692k(a)(2)(A);

- c. All reasonable attorneys' fees, witness fees, court costs and other litigation costs incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3); and
- d. Any other relief deemed appropriate by this Honorable Court.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, TUAN MARTIN, demands a jury trial in this case.

RESPECTFULLY SUBMITTED,

Date: 12-6-88

By: _____
Craig Thor Kimmel
Attorney ID No. 57100
Kimmel & Silverman, P.C.
30 E. Butler Pike
Ambler, PA 19002
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